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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/795,789	03/08/2004	Steven J. Svoboda	26.2.D09/USA	7704
61145 7590 07/08/2008 JAMES W. MILLER, ATTORNEY 527 MARQUETTE AVENUE SUITE 1960, RAND TOWER MINNEAPOLIS, MN 55402				
EXAMINER				
REDDING, DAVID A				
ART UNIT		PAPER NUMBER		
3723				
MAIL DATE		DELIVERY MODE		
07/08/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/795,789

Applicant(s)

SVOBODA ET AL.

Examiner

David A. Redding

Art Unit

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 18, 24-28, 30, 31 and 38-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 30 and 38-40 is/are allowed.
- 6) ☒ Claim(s) 1, 18, 24, 27 and 28 is/are rejected.
- 7) ☒ Claim(s) 2-8, 25, 26 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 18, 24, 27 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by USP 5,291,722 (Schweigert).

The Schweigert patent discloses a cart for the collection of yard waste from a waste collector comprising a flexible collection bag 12 that receives and stores debris (figures 1 and 5) , a connecting hose (shown in figure 5) coupled to the outlet of a blower/vac, and a cart 10 for supporting a lower portion (edge of the bag opening) of the bag 12, the cart having a longest dimension that is generally horizontal relative to the ground. The collection bag 12 is sufficiently enclosed in the collection mode by the cart 10.

Response to Amendment

Applicants argues the following regarding the rejection in view of Schweigert:

In Schweigert, the only thing that can read on the collection bag as recited in claim 1 is the combination of the wheeled cart 10 and the upper cover 12. The wheeled cart arguably provides the bottom of the bag and the upper cover the top of the bag and together they define an enclosure that retains the debris. However, as shown in Figs. 5 and 6 of Schweigert, a separate flexible liner 20 is used to roll the debris out of the cart 19 after the cover 12 is folded forwardly.

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Clearly, the collection bag and wheeled cart in claim 1 are separate components. The cart recited in claim 1 is not part of the enclosed bag in which the debris is collected and contained. In addition, assuming *arguendo* that the cart is properly considered to be part of the bag, claim 1 as amended requires "the collection bag being detachable from the cart in a debris disposal mode". The cart can't be detached from itself if it forms part of the bag. Thus, claim 1 as amended is allowable over the combination of Black & Decker and Schweigert.

The Examiner recognizes that the cart recited in the claims is not part of the enclosed bag, however the claims do not preclude that the bag be enclosed by the cart. The claims specify only that the bag is enclosed except for the inlet. Further, in response to the argument that in the debris disposal mode the bag be detachable, the bag 12 in Schweigert is detached to allow a user to remove the debris. Applicant's argument implies that the collection bag must contain the debris in the disposal mode, however such a limitation is not claimed. Assuming *arguendo* that the claim was to require such a limitation it would be considered intended use.

Applicant's argument regarding the rejection in view of Madhat is persuasive and the rejections withdrawn.

Allowable Subject Matter

Claims 30,38-40 are allowed.

The Schweigert reference fails to teach or suggest a connection between the end of the hose (figure 5) and the collection bag 12 to allow a user to pull the bag and cart by the hose. Further there is no teaching or suggestion of an attachment flange on the collection bag releasably received in a slideway on the one end of the cart.

Claims 2-8,25 26, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David A. Redding whose telephone number is 571-272-1276. The examiner can normally be reached on Mon.-Fri. 6:00 - 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on 571-272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ David Redding /
Primary Examiner
Art Unit 3723

DAR